

Murray Code Enforcement Board Minutes

August 7, 2007

The Murray Code Enforcement Board met in regular session on August 7, 2007 at 5:00 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Matt Jennings, Mitzi Key, Thomas Rottinghaus, and Sam Underwood

Board Members Absent: Ben Blakely

Others Present: David Roberts and Dannetta Cossey

Chairman Thomas Rottinghaus called the meeting to order and had an attendance roll call.

Approve Minutes from July 10, 2007 Meeting: Chairman Rottinghaus asked for approval of the July 10, 2007 minutes. **Sam Underwood made a motion to approve the July 10, 2007 minutes. Mitzi Key seconded the motion and it carried by a 4-0 voice vote.**

Discussion of Final Order for Tri Dinh dated July 10, 2007: David Roberts explained that the Respondent, Tri Dinh has contacted an attorney but has not filed a final appeal of the order. Mr. Roberts stated after talking with the City Attorney it was his opinion that there were minor errors in the process such as, all three properties listed on one citation and the citation was issued to Tri Dinh which is not the owner of the property nor the person in charge of the property. Mr. Roberts said the City Attorney suggested bringing this case back before the board for consideration with the options of withdrawing the previous order or leaving the Final Order as is. Mr. Roberts stated that an affidavit dated July 20, 2007 by Captain Potts is on file that states as of that date all three properties were in compliance. Mr. Roberts explained that if the Board does withdraw the previous order and the properties are now not in compliance the code enforcement officer could issue another citation. Mr. Rottinghaus asked who the owner of the property was. Mr. Roberts stated that Giao Dinh was the owner of all three properties. Mr. Rottinghaus asked how it was concluded that Giao Dinh was the owner of the properties. Mr. Roberts said the property owner's book showed that Giao Dinh was the owner and that we had a copy of the deeds. Mitzi Key asked if Tri Dinh's signature on the citation made him liable. Mr. Roberts said that the citation showed that Tri Dinh was the owner or operator of the properties and he is not. Chairman Rottinghaus stated that he felt the Board should remove the previous order from the record and the City should start over again. Mr. Roberts stated that was the City attorney's recommendation. **Thomas Rottinghaus made a motion that the Board's order dated July 10, 2007 and received by Respondent, Tri Dinh on July 12, 2007 be rescinded. Sam Underwood seconded the motion and it carried by a 4-0 roll call vote.**

Training Session

David Roberts stated the way the property maintenance code reads that weeds and grass is the owner's responsibility and rubbish and garbage is the responsibility of the occupant or

operator which is the person in charge, care or control of a premises and that an operator would apply to a commercial establishment. Mr. Underwood asked what if a structure had multiple tenants. Mr. Roberts stated then it would be treated as commercial establishment and the owner or operator would be responsible. Mr. Jennings said he felt that common areas at apartment complexes such as parking areas and trash areas that the owner should be responsible. Mr. Roberts read the definitions of occupant, operator, and owner and stated that the property maintenance code 306.0 states the owner is responsible for supplying garbage containers but it's the occupant's responsibility to dispose of it in a clean and sanitary manner. Mr. Roberts stated for commercial entities then it would fall back to the owner or operator's responsibility. Chairman Rottinghaus asked if the property maintenance code could be changed to define public areas, multiple occupants and dumpsters. Mr. Roberts answered yes. Mr. Roberts stated that rubbish and garbage would be handled by Don Rogers the Sanitation Department Supervisor instead of the Police Department now because Mr. Rogers has the ability to offer the removal of rubbish and garbage by the Sanitation Department for a fee. Mr. Roberts stated that the ultimate goal for the City is for these areas to be cleaned up instead of generating money. Chairman Rottinghaus recommended that the council address the changes needed to the property maintenance code as soon as possible. Mr. Jennings asked if the Board needed to do anything in the process of making the changes. Mr. Roberts stated that the Board can make suggestions of changes they want. Mr. Jennings suggested that the property maintenance code be changed to define that if a portion of a owner's property is common area shared by more than one tenant the owner shall be responsible for the garbage and rubbish in that area. Mr. Roberts explained that the fine schedule is another item that needs to be looked at for changes to make sure it's more understandable and clear because it's being interpreted different ways. Mr. Roberts also explained that liens need to be looked at to determine if liens can be attached to personal property of an occupant. Mr. Roberts said another thing he would like to discuss with the Board is default cases and explained the person cited did not appeal the citation which waives their right to come before the Board and the Board has to automatically find for the City in default cases. Mr. Roberts said we have had the code enforcement officers present a detailed case and we are looking to expedite things by possible having affidavits along with any evidence from the officers presented to the Board instead of the officers being in attendance. Mr. Roberts continued to say that on default cases no one should give testimony except the officers. Mr. Jennings asked if the cited person could be in attendance during a default case. Mr. Roberts said yes they can but in default cases we are not required to notify them and they cannot present any evidence because they have already waived their right to a hearing by not appealing the citation. Mr. Jennings asked if anyone could speak at a public hearing. Mr. Roberts answered yes that public hearings are to be conducted like an informal hearing.

Being no further business, Thomas Rottinghaus made a motion to adjourn.

Chairman, Thomas Rottinghaus

Recording Secretary, Dannetta Cossey